

**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Chapter 7	Number 16	Effective Date 12/07/10	Review Date 2013
Subject DRUG-RELATED SEIZURES			☐ New Order ☒ Replaces G.O. 7-16, (06/09/06)
References CALEA 1.2.4f, 1.2.4g, 42.2.1c, 43.1.1, 43.1.2, 43.1.5 VLEPSC OPR.03.05a, OPR.03.05c, OPR.03.05d VA Code §19.2-386.1-19.2-386.14 and §19.2-386.22 21 USC §881(a)			
 _____ Chief of Police or Designee		 12/07/10 _____ Date	

I. PURPOSE

The purpose of this directive is to establish the policy and procedure regarding drug-related seizure of assets.

II. BACKGROUND

A. Both state and federal asset forfeiture statutes authorize civil proceedings designed to forfeit drug-related property under certain circumstances. ***The*** Code of Virginia ***§19.2-386.22*** allows law enforcement officers to immediately seize an asset that is:

1. Used "in substantial connection with" the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances or the delivery of drugs to a prisoner;
2. Of value and furnished or intended to be furnished in exchange for a controlled substance; and,
3. Money and property traceable to such an exchange together with any interest or profits derived from the investment of such money or property.

B. Federal law permits federal forfeiture of assets when those assets are:

1. Used to facilitate a drug law violation;
2. Of value and furnished or intended to be furnished by any person in exchange for a controlled substance; or,
3. Traceable to an exchange of illegal drugs.

NOTE: This is an overview of 21 U.S.C. §881(a). This section *shall* be specifically referred to for all *drug-related forfeitures*.

III. ACCOUNTABILITY STATEMENT:

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. POLICY

A. It is the policy of the Richmond Police Department that officers *may* seize assets if:

1. There is a criminal arrest for the drug law violations as stated in this policy, and there exists:
 - a) A substantial connection can be made between the asset and the illegal act; or,
 - b) The asset was used in exchange for a controlled substance; or,
 - c) The asset is traceable to an illegal exchange.

OR

2. A criminal arrest is not made for drug law violations but there exists:
 - a) Probable cause to believe that a substantial connection can be made between the asset and the illegal act; or,
 - b) Probable cause to believe that the asset was used in exchange for a controlled substance; or,
 - c) Probable cause to believe that the asset is traceable to an illegal exchange as determined by the Asset Forfeiture Section (*AFS*).

NOTE: A seizure under these situations means that an officer must be able to articulate facts which lead him/her to believe that the asset was subject to forfeiture under Virginia law.

B. To proceed under federal law, a member of the Asset Forfeiture Section will contact the appropriate federal agency for permission to seize money or property.

V. PROCEDURE

A. Procedures and Responsibilities for Seizing Officers:

1. Immediately notify a member of the AFS in all cases of drug-related vehicle seizures prior to seizure or towing of the vehicle.

2. Submit *the following documentation to the corresponding divisions*:
 - a) *Asset Seizure Report (PD-30)* to the Property and Evidence Unit, at the time of submission, *for seizures involving* cash or any other asset(s). The property clerk will forward the original and one copy of the PD-30 to the AFS;
 - b) *Vehicle Tow Slip* to the *Division of Emergency Communications (DEC)* for vehicles prior to reporting off-duty that day; *and*,
 - c) *Completed PD-30 and all pertinent case information to the AFS.*
3. Notify the AFS when a residence is used to facilitate a drug law violation, i.e. drugs are found on the premises, to determine if real property or leases may be forfeitable.
4. Once forfeiture action is initiated, AFS personnel will make a final disposition or release the subject property as provided by law and departmental policy.
5. If an arrest is made and a criminal case is pending in court and asset forfeiture action is not being taken against the property or asset, then the property or asset should be introduced as evidence at the trial so that it may be retained either by the court or released to the owner.

NOTE: AFS personnel are available at all times for information and assistance. They *shall* be contacted when a seizure is in doubt. Contact numbers are on file in the *Division of Emergency Communications (DEC)*.

B. Evidence Collection:

1. Financial Documents - When conducting the narcotics evidence search of a business, residence or vehicle, officers *will* attempt to obtain any documents related to the ownership of the items to be seized and process them as evidence. This may include vehicle registrations, mortgage papers, bankbooks or statements, safe deposit box keys, income tax statements and employment information.
2. Participant Identification - Complete information is needed on all suspects and participants when a seizure is made. Federal agencies require the following information on all participants and persons present when a seizure is made: complete name, date of birth, race, sex, nationality, height, weight, color of eyes and hair, complete address including zip code, telephone number, social security number and any other identifying numbers, i.e. state or federal agency numbers, out-of-state driver's license numbers, etc.
3. Statements - In addition to obtaining the identity and complete description of everyone present at the scene of a drug-related seizure, statements from all participants must be obtained. The simplest *and most effective* method is to assign one person to conduct the interviews. The following information is needed:
 - a) Statements concerning ownership - This is the most important information to be collected at the scene in any seizure for forfeiture. These statements will be used to refute claims to the property seized, particularly when participants

deny ownership at the scene and attempt to lay claim to the seized item(s) during forfeiture proceedings.

- b) Lien holder (if any) and amount of lien - The amount of the lien will determine if a vehicle or piece of property is worth pursuing. Even when the property is clearly forfeitable, the pay-off on the lien may make forfeiture impractical. All lien holders must be identified. This decision should be made by AFS and not the investigating officer.
- c) Origin – **Determine** ‘Where did the property/money come from?’ ‘How did the subject get it?’
- d) Employment – Occupation(s), work addresses and telephone number(s) and length of employment/unemployment.
- e) Follow-up Information - Attempt to verify subject's statements concerning third party ownership. For instance: **If** subject states that the money or property belongs to a friend or relative, **an** attempt to contact the friend or relative **shall be made** as soon as possible, to verify these statements before the subject can influence what they might say.

C. Vehicles:

- 1. **If feasible**, an AFS member will be contacted before any vehicle being seized for a drug-related offense is moved. The AFS will determine where the vehicle is to be stored.
- 2. After the vehicle is searched, the seizing officer is responsible for inventorying the vehicle.
- 3. After the vehicle has been searched and inventoried, all non-evidence found in the vehicle shall be removed and released to the person in possession of the vehicle or turned in to the Property and Evidence Unit. All standard and attached equipment will remain in the vehicle.
- 4. The officer shall issue the person in possession of the vehicle a Property Receipt for the vehicle and its contents.
- 5. The officer shall complete a PD-30 and notify the Information Desk that the vehicle was seized.

D. Money Seizures - When seizing money, the officer shall ensure an accurate count. The AFS cannot accept money from the Property and Evidence Unit that does not match the recorded amount.

E. Real Property and Other Property of Value - Houses, jewelry, furs, and other items obtained from the proceeds of illegal drug trafficking may be forfeitable, however a detailed financial investigation is usually necessary to exclude possible legitimate sources of income from which the item may have been purchased. When a seizure is in doubt, the officer shall contact the AFS for assistance.

- F. Issuance of Property Receipt – *If an individual requests a Property Receipt, the officer shall provide the individual with the Incident-Based Report (IBR) number, officer's name and a brief description of property seized.* The officer shall avoid listing dollar amounts or descriptions such as "gold" on the **IBR**. The officer shall list money as "one lot of U.S. Currency" and use descriptions such as "a yellow metal."
- G. Case Folder - The AFS will investigate all incoming PD-30 **forms**. A complete case folder **shall** be compiled and forwarded to the AFS by the seizing officer within three (3) working days. This case folder will include:
1. A synopsis of the case entitled "Facts and Circumstances" or "Investigative Report" containing the probable cause and the sequence of events leading to the seizure.
 2. A copy of any/all Warrants.
 3. A copy of any/all CCREs.
 4. A copy of any/all Property Vouchers.
 5. PD-30 forms.

VI. FORMS

- A. PD-30, Asset Seizure Report